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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,257	07/15/2003	Joseph Michael Bennett		9751
7590	10/05/2004		EXAMINER	
Joseph Michael Bennett			BUGG, GEORGE A	
Apt. 916			ART UNIT	PAPER NUMBER
2325 Nashville Pike				
Gallatin, TN 37066			2636	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/620,257	BENNETT, JOSEPH MICHAEL
	Examiner	Art Unit
	George A Bugg	2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14-18 is/are allowed.
- 6) Claim(s) 1-10, 12, 13, 19 and 20 is/are rejected.
- 7) Claim(s) 11 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 July 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/15/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 8-10, 19, and 20 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 47,351,642 to Bonavent et al.
3. With regard to claims 1-3, 10, and 19, Applicant claims “***A system to respond to the discharge of hazardous substances, which includes a structure constructed of a material type subject to rupture when exposed to said hazardous substance.***” Column 1, lines 27-33, of the Bonavent reference, teaches a device for fighting against pollution, which releases a neutralizing agent when the deterioration of a sensitive element of the structure comes into contact with the pollutant. As seen in Figure 2, and further disclosed in column 3, lines 30-37, the sensitive element, or material type subject to rupture, forms the wall of vessel, which holds the neutralizing agent. The neutralizing agent is applied automatically, and aids in the reduction of damage to surroundings and/or personnel. Figure 2 shows the container, or reservoir, full of a neutralizing agent (19), inherently if the tank is full the pressure inside the tank is higher than that of ambient the ambient pressure.

4. With regard to claims 4, 5, and 20, column 3, lines 7-25, disclose a process wherein when the strip 2 is broken down by a hydrocarbon, or hazardous substance, spring 5 in Figure 1, recoils and the alarm 14 sounds. The spring reacts to a change in pressure, and notifies personnel of potential danger. Bonavent further discloses an audible alarm, or siren, as well as transmitting a radio signal.

5. As for claim 8, Figure 2 shows the container, or reservoir, full of a neutralizing agent (19), inherently if the tank is full the pressure inside the tank is higher than that of ambient the ambient pressure.

6. With regard to claim 9, Figure 2 shows an exterior wall 18 formed by a sensitive material, which has been shown to be ruptureable by a hazardous substance.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 7, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,351,642 to Bonavent et al.

9. As for claim 6, although the Bonavent reference does not specifically teach a portable system, he does teach (column 1, lines 60-68) that the invention can be used at sea, as well as in a refinery. In addition, In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) teaches that a claimed device that is portable or movable is not sufficient

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by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results. Making the system portable does not change its functionality or its purpose, and therefore would have been obvious to one of ordinary skill in the art for the purpose of creating a versatile system useable in multiple potentially hazardous environments.

10. With regard to claim 7, the Bonavent reference teaches (column 4, lines 1-4) that his system can be used to neutralize gas, oil, and kerosene, to name but three. While the reference does not specifically disclose multiple structures and mitigating means, duplicate tanks, shown in Figure 2, filled with different neutralizing agents, each for neutralizing a different hazardous substance, would have been obvious to one of ordinary skill in the art for the purpose of creating a system capable of responding to a plurality of harmful substances.

11. As for claim 12, column 4, lines 30-39, discloses a material type called a styrene-butadiene copolymer, which Webster defines as a synthetic rubber or plastic. While the copolymer taught by Bonavent is not one of the substances given in claim 12, it is equivalent in the art, and can be used interchangeably as a sensitive material, which will break down when exposed to hazardous substances such as hydrocarbons. Therefore, it would have been obvious to one of ordinary skill in the art to use the copolymer, disclosed by Bonavent, as an alternative, but equivalent material type, to those claimed.

12. As for claim 13, Bonavent discloses a neutralizing agent, used to combat the effects of hydrocarbons, such as gas, oil, or kerosene. While the Bonavent reference is silent as to the specific chemical compound used, column 1, lines 28-34, state that it

can be a solid powder, liquid, or gas. The chemical compounds listed in claim 13, are all well known neutralizing agents, and therefore can be used interchangeably within the system. It would have been obvious to one of ordinary skill in the art to utilize a compound given in claim 13, for the purpose of neutralizing a hazardous substance with an agent, which is commonly known, and readily available.

Allowable Subject Matter

13. Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 14-18 are allowed.

Conclusion

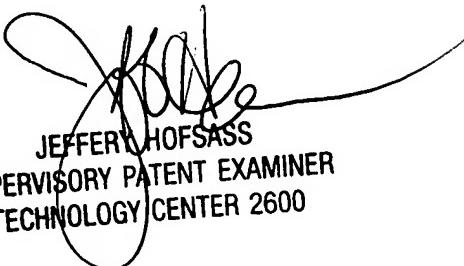
Any inquiry concerning this communication or earlier communications from the examiner should be directed to George A Bugg whose telephone number is (571) 272-2998. The examiner can normally be reached on Monday-Thursday 9:00-6:30, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George A Bugg
Examiner
Art Unit 2636

September 30, 2004



JEFFREY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600